PROPOSED DECISION

Agenda ID #12713

Decision	

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Revisions to the	Rulemaking 09-06-019	
California High Cost Fund B Program.	(Filed June 18, 2009)	

DECISION GRANTING COMPENSATION TO THE GREENLINING INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-12-038

Claimant: The Greenlining Institute	For contribution to Decision 12-12-038
Claimed (\$): \$22,607.00	Awarded (\$): \$22,972.00
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Thomas R. Pulsifer

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	The decision adopts revisions to the definition of basic	
	telephone service, applicable to a carrier, using any	
	technology that acts as a Carrier of Last Resort or offers	
	LifeLine service or otherwise provides basic telephone	
	service.	

B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	As Stated by Claimant	CPUC Verified		
Timely filing of notice of intent to c	Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):			
1. Date of Prehearing Conference:	N/A	Yes		
2. Other Specified Date for NOI:	May 16, 2011 – See Comment in Section I.C. below			
3. Date NOI Filed:	May 16, 2011	Yes		
4. Was the NOI timely filed?		Yes		
Showing of customer or customer-related status (§ 1802(b)):				

84958302 - 1 -

5. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.) 10-02-005	Correct
6. Date of ALJ ruling:	March 29, 2010	Correct
7. Based on another CPUC determination:		
8. Has the Claimant demonstrated customer or custo	omer-related status?	Yes
Showing of "significant fin	ancial hardship" (§ 1802(g))):
9. Based on ALJ ruling issued in proceeding number:	R.09-08-009	R.10-02-005
10. Date of ALJ ruling:	March 29, 2010	Correct
11. Based on another CPUC determination:		
12. Has the Claimant demonstrated significant finance	Yes	
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	Decision (D.) 12-12-038	Correct
14. Date of Issuance of Final Decision:	December 24, 2012	Correct
15. File date of compensation request: February 22, 2013		Correct
16. Was the request for compensation timely?	Yes	

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment	
I.B.2	XX		In the Administrative Law Judge's Ruling Granting Motions for Party Status	
			and to Late File Notice of Intent (filed May 26, 2011), p. 1, Administrative	
			Law Judge (ALJ) Pulsifer granted the Greenlining Institute's (Greenlining)	
			motion for leave to late-file its NOI, which was filed on May 16, 2011.	

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant's description of its contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059):

Contribution	Specific References to Claimant's Presentations and to Decision (Provided by Claimant)	Showing Accepted by CPUC
1. Greenlining was not a party to the proceeding at its inception, but became a party after a new phase of the proceeding was announced. In the Assigned Commissioner's Ruling Adopting Amended	See Administrative Law Judge's Ruling Granting Motions for Party Status and to Late File Notice of Intent (filed May 26, 2011), p. 1.	Correct, though this merely explains how Greenlining became a party, rather than its substantial contribution.

Scoping Memo and Schedule, issued on December 31, 2010 (at pp. 1-3, 27) (Assigned Commissioner's Ruling (ACR)) Commissioner Bohn announced a new phase in the proceeding, to assess the level of competition in the marketplace and determine whether competition properly disciplines the prices of basic service. This ACR (at pp. 21-24) set a schedule for comments on competition issues.		
President Peevey was then designated as the new assigned commissioner for this proceeding and issued an Assigned Commissioner's Ruling Temporarily Deferring Comment Schedule on January 20, 2011.		
On April 27, 2011, the ALJ issued a ruling seeking a new round of comments on an updated proposed basic service definition. Greenlining then sought to become a party to the proceeding. See Motion of the Greenlining Institute Requesting Party Status and for Leave for File a Notice of Intent to Seek Compensation (filed May 16, 2011).		
Greenlining joined other consumer groups (Disability Rights Advocates (DisabRA), Center for Accessible Technology (CforAT), National Consumer Law Center (NCLC), The Utility Reform Network (TURN)) in formal pleadings and in other advocacy.		
2. Affordability: Greenlining, along with its' allies urges the Commission to require unbundled stand-alone basic service, in order	The Commission requires carriers providing basic service to offer at least one unbundled, stand-alone option, although packages with	Correct

to maintain affordable basic service without additional costs for other services.

See Comments of DisabRA, NCLC, and Greenlining on the ALJ's Ruling Providing for Comments on Proposed Basic Telephone Service Revisions (filed May 16, 2011) (Comments on ALJ Ruling), p. 5.

See Reply Comments of DisabRA, NCLC and Greenlining on the ALJ's Ruling Providing for Comments on the Proposed Basic Telephone Service Revisions (filed May 31, 2011) (Reply Comments on ALJ Ruling), pp. 9-10.

See Comments of CforAT, NCLC, and Greenlining on the Proposed Decision of President Peevey Adopting Basic Telephone Service Revisions (filed December 5, 2011) (Comments on proposed decision (PD)), p. 4.

See TURN, CforAT, Greenlining and NCLC on the Alternate Proposed Decision of Commissioner Florio Adopting Basic Telephone Service Revisions (filed August 7, 2012) (Comments on Alternate Proposed Decision (APD)), p. 8.

See Reply Comments of Greenlining and NCLC on the Alternate Proposed Decision of Commissioner Florio Adopting Basic Telephone Service Revisions (filed August 13, 2012) (Reply Comments on APD), pp. 3-4.

See Comments of TURN, CforAT, Greenlining and NCLC on the Revisions to the APD of Commissioner Florio Adopting other services may be offered. *See* D.12-12-038, p. 11, Order #1.

The Commission requires carriers to inform customers that they have the option of purchasing unbundled, stand-alone basic service. *See* D.12-12-038, p. 11, Appendix A, Sec. II.d.

[Please note that D.12-12-038 did not often cite any parties' positions in reaching its conclusions.]

Basic Telephone Service Revisions (filed October 16, 2012) (Comments on Rev. APD), p. 5. 3. Affordability: Greenlining, along with its consumer allies, urges the Commission to require that basic service offered through the LifeLine program maintain the same minimum standards of basic service. See Comments on ALJ Ruling, p. 5. See Reply Comments on ALJ Ruling, p. 9. See Comments on PD, pp. 5-6. See Reply Comments of the Greenlining Institute on the PD of President Peevey Adopting Basic Telephone Service Revisions (filed December 12, 2011) (Reply Comments on PD), p. 4. See Reply Comments on APD, p. 2.	Any carrier that seeks LifeLine support must offer the same basic service elements as specified in Appendix A. However, there will be flexibility in providing these elements, to meet needs of LifeLine customers, to be determined in R.11-03-013. See D.12-12-038, p. 4, Order #4.	Correct
4. Affordability: Greenlining, along with its consumer allies, maintains that carriers that wish to be Carriers of Last Resort must offer basic service throughout their service territory. See Reply Comments on PD, p. 3. See Comments on APD, p. 12.	The Commission requires that carriers that wish to be Carriers of Last Resort must offer basic service throughout their service territory. <i>See</i> D.12-12-038, pp. 3, 12, 25 Appendix A, Sec. I.4.c.	Correct
5. Affordability: Greenlining, along with its consumer allies, maintains that basic service include an option for a flat rate with unlimited amount of incoming calls and unlimited local calls. See Reply Comments on ALJ	Carriers must include at least one basic service flat-rate option with unlimited incoming calls, although customers may select a more affordable measured rate option. See D.12-12-038, pp. 26-28, Appendix A, Sec. I.4.a.	Correct

Ruling, pp. 10-11. See Comments on PD, p. 10. See Comments on APD, p. 7. See Reply Comments on APD, p. 2.	Carriers must include at least one basic service flat-rate option with unlimited calls within a territory approximating a landline local exchange. Carriers may also offer a plan with per-minute or per-call charges, although customers must be fully informed of their options. <i>See</i> D.12-12-038, pp. 28-31, Appendix A, Sec. I.4.b.	
6. Affordability: Greenlining, along with its allies, maintains that basic service must include the option of measured rate service, as such an option may be a more affordable option for customers that make few calls. See Comments on PD, pp. 7-8. See Comments on APD, p. 12.	The Commission will not eliminate the current requirement to offer a measured rate service as a more affordable option, pending any contrary findings in R.11-03-013. See D.12-12-038, p. 28.	Correct
7. Minimum Service Elements: Greenlining, along with its consumer allies, maintains that carriers should file tariffs describing their basic service, to help ensure that they are meeting the definition. See Comments on APD, p. 9. See Reply Comments on APD, pp. 3-4. See Comments on Rev. APD, pp. 5-6.	Carriers must file tariffs that describe its basic service rates, charges, terms, and conditions, and must make them publicly available. Carriers must file tariffs for each type of offering if different technologies are used. <i>See</i> D.12-12-038, pp. 10-11, Appendix A, Sec. II.a, b.	Correct
8. Minimum Service Elements: Greenlining, along with its consumer allies, maintains that basic service should not include any per-minute or per-call charges	Carriers must include at least one basic service option with unlimited calls to toll-free numbers, with additional per-minute or per-call usage. Carriers may also offer	Correct

for toll-free calls, noting how important these calls are for individuals to function in the society and the economy. See Comments on ALJ Ruling, p. 13. See Reply Comments on ALJ Ruling, pp. 11-12. See Comments on PD, p. 11. See Comments on APD, p. 11.	alternate plans with per-minute or per-call charges for toll-free calls, although customers must be fully informed of their options. <i>See</i> D.12-12-038, pp. 38-29, Appendix A, Sec. I.5.	
9. Minimum Service Elements: Greenlining, along with its consumer allies, urges the Commission to require that basic service providers, both COLR and non-COLRs provide 911/E911 service at a level comparable to that provided by a wireline incumbent. See Comments on ALJ Ruling, pp. 6-8. See Reply Comments on ALJ Ruling, pp. 6-7. See Comments on PD, p. 7. See Comments on APD, pp. 9-10. See Comments on Rev. APD, pp. 9-10.	Basic service providers (COLR and non-COLR) must provide 911/E911 service that is reasonably comparable but not necessarily identical to that offered by the existing COLR. See D.12-12-038, pp. 22-24, Appendix A, Sec. I.2.	Correct
10. Minimum Service Elements: Greenlining, along with its consumer allies, urges the Commission to allow wireless customers to un-list their phone number from directories without any additional charge. See Reply Comments on ALJ Ruling, p. 9. See Comments on PD, p. 10.	For basic service provided by other than a traditional wireline carrier, a customer's listing may be excluded from the directory as a [free] default unless the subscriber affirmatively requests to have the number listed. <i>See</i> D.12-12-038, p. 34, Appendix A, Sec. I.3.b.	Correct

See Comments on APD, p. 10.		
See Comments on Rev. APD, p. 6.		
11. Minimum Service Elements: Greenlining, along with its consumer allies, maintains that basic service providers should provide a free printed white pages directory, unless the customer opts out. See Comments on ALJ Ruling, pp 9-12. See Reply Comments on ALJ Ruling, pp. 7- 9. See Comments on PD, p. 10. See Comments on APD, p. 11.	A basic service provider must provide customers the option to receive a free printed white pages directory. <i>See</i> D.12-12-038, p. 35, Appendix A, Sec. I.3.d. For Verizon and carriers in Verizon's service territory, unless a customer affirmatively elects to continue receiving a printed white pages directory, the carrier may use alternate means (a CD, online) to deliver the directory. <i>See</i> D.12-12-038, p. 37, Appendix A, Sec. I.3.e, f.	Correct
12. Minimum Service Elements: Greenlining, along with its consumer allies, urges the Commission to continue free blocking of 900/976 calls as part of basic service.	Basic service must include one- time free blocking for 900/976 information services and one-time free billing adjustments for changes inadvertently or mistakenly incurred, or without authorization. See D.12-12-038, p. 40,	Correct
See Reply Comments on ALJ Ruling, p. 12.	Appendix A, Sec. I.8.	
See Comments on PD, p. 12.		
See Comments on APD, p. 11.		
13. Service Quality Issues: Greenlining, along with its consumer allies, urges the Commission to maintain current fundamental standards for basic service, on a technologically neutral basis, but not to reduce the definition to the lowest common denominator.	Technological neutrality basis does not warrant the degrading of essential consumer needs to satisfy the lowest common denominator of service features that carriers may currently be willing to offer. <i>See</i> D.12-12-038, p. 13.	Correct
See Comments on ALJ Ruling, pp. 2-3.		
See Reply Comments on ALJ		

Ruling, pp. 3-4.		
See Comments on PD, pp. 1-3.		
See Comments on APD, pp. 2-4.		
See Reply Comments on APD, pp. 1-2.		
14. Service Quality Issues: Greenlining, along with its consumer allies, maintains that service quality standards must apply throughout a COLR's service territory, not just in the areas for which it receives high cost funds.	Basic service includes the provision of voice-grade service, for all providers (COLR and non-COLRs). <i>See</i> D.12-12-038, p. 20, Appendix A, Sec. I.1.	Correct
See Reply Comments on ALJ Ruling, pp. 4-5.		
See Reply Comments on PD, pp. 3-4.		
See Comments on Rev. APD, pp. 2-3.		
15. Service Quality Issues: Greenlining, along with its consumer allies, urges Commission to adopt service quality standards that maintain existing standards; voice-grade service to customer's residence.	Basic service is voice-grade service to the customer's house. If this standard of service is lost, carriers must either 1) restore service; 2) provide basic service with another technology if customer agrees; or 3) customer may	Correct
See Reply Comments on ALJ Ruling, pp. 3-4.	terminate service, without paying any termination fees. <i>See</i> D.12-12-038, pp. 20-22,	
See Comments on PD, p. 12.	Appendix A, Sec. I.1.c, e.	
See Reply Comments on PD, pp. 3-4.		
See Comments on APD, pp. 8-9.		
See Comments on Rev. APD, pp. 2-3.		
	I	<u> </u>

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) ¹ a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding with positions similar to the Claimant's?	Yes	Yes
c. Names of other parties (if applicable): Disability Rights Advocates, Center for Accessible Technology, Nat Consumer Law Center, The Utility Reform Network.	Correct	
d. Claimant's description of how Claimant coordinated with DRA ar parties to avoid duplication or of how Claimant's participation supplemented, complemented, or contributed to that of another participation or contributed to that of another participation or contributed to that of another participation or the groups had similar positions on the issues in this proceeding. Most filings were performed jointly, and issues were distributed to vindividuals to avoid duplication. As mentioned above, Greenlining joined the proceeding not at its included the proceeding on the basic service definition.	arty: I TURN. ng. various	Correct

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
II.A.	X		Please note that D.12-12-038 did not often cite any parties' positions in
1-15			reaching its conclusions.

¹ The Division of Ratepayer Advocates (DRA) was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Explanation by Claimant of how the cost of Claimant's participation bore a reasonable relationship with benefits realized through participation:	CPUC Verified
It is difficult to quantify how much telephone customers stand to benefit by the maintenance of high quality standards for basic service as the definition is revised to allow for non-traditional providers. However, Greenlining's participation (as part of consumer groups) was integral in maintaining many standards (such as stand-alone service, unlimited incoming calls, unlimited local calls, and measured rate service) that will cause significant savings for millions of basic service customers.	Correct
Moreover, Greenlining's participation helps maintain important basic service standards (such as adequate 911 service, unlimited 800- calls, directory services and blocking of 976 calls) for millions of basic service customers. These services help customers engage in society and the economy.	
Finally, Greenlining's participation helped ensure that millions of basic service customers continue to receive adequate levels of service quality, no matter what technology used to deliver their service.	
b. Reasonableness of Hours Claimed.	Correct
Greenlining's hours are reasonable, in large part because of our extensive collaboration with consumer groups to maximize efficiency, eliminate duplication of effort, and ensure that effective participation by all parties used only minimal resources. Greenlining's claim is relatively small.	
c. Allocation of Hours by Issue	Correct
Greenlining's time is allocated by issue category as follows:	
 A. Minimum Levels of Basic Service - Various Elements – 29% B. Affordability & LifeLine Issues – 22% C. Service Quality Issues – 23% D. General – 26% 	

B. Specific Claim*:

	CLAIMED								CPUC A	WARD
ATTORNEY, EXPERT AND ADVOCATE FEES										
Ite	Item Year Hours Rate Basis for Rate Total Year Hours Rate									
Enriq Galla		2011	29.4	\$370	D.12-04-043	\$10,878.00	2011	29.4	\$370	\$10,878.00
Enriq Galla		2012	26.9	\$370	D.12-04-043	\$9,953.00	2012	26.9	\$380 ²	\$10,222.00
	Subtotal: \$20,831.00 Subtotal:							\$21,100.00		
			INTER	VENOR	COMPENSATIO	ON CLAIM PI	REPAR	ATION	**	
Ite	m	Year	Hours	Rate	Basis for Rate	Total	Year	Hours	Rate	Total
Enriqi Gallar		2013	9.6	\$185	½ approved rate	\$1,776.00	2013	9.6	\$195	\$1,872.00
				•	Subtotal:	\$1,776.00		•		\$1,872.00
					cos	TS				
# Item Detail Amount Amount										
						\$			\$	
Subtotal: \$ Subtota						ubtotal:	\$			
	TOTAL REQUEST: \$22,607.00 TOTAL AWARD:								\$22,972.00	

^{*} We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants, and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

** Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate (the same applies to the travel time).

Attorney	Date Admitted to CA BAR ³	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Enrique Gallardo	December 9, 1997	191670	No.

² See D.13-10-018.

³ This information may be obtained at: http://www.calbar.ca.gov/.

D. CPUC Disallowances & Adjustments:

# Reason				
	1	Pursuant to Resolution ALJ-287, Enrique Gallardo is awarded a 2% Cost of Living Adjustment to his 2012 hourly rate to establish his new 2013 hourly rate.		

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?	No
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6)) (Y/N)?	Yes

FINDINGS OF FACT

- 1. The Greenlining Institute has made a substantial contribution to D.12-12-038.
- 2. The claimed fees and costs, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
- 3. The total of reasonable compensation is \$22,972.00.

CONCLUSION OF LAW

The claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

- 1. The Greenlining Institute is awarded \$22,972.00
- 2. Within 30 days of the effective date of this decision, the Commission's Fiscal Office shall disburse the awarded compensation from the Commission's Intervenor Compensation Fund. Payment of the award shall include interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 8th, 2013, the 75th day after the filing of The Greenlining Institute's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.This order is effective today.Dated _______, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	D1212038	
Proceeding(s):	R0906019	
Author:	ALJ Thomas R. Pulsifer	
Payer(s): Commission's Intervenor Compensation Fund		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier	Reason Change/Disallowance
The Greenlining Institute	2/22/13	\$22,607.00	\$22,972.00	No	Resolution ALJ-287.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee	Year Hourly Fee	Hourly Fee
				Requested	Requested	Adopted
Enrique	Gallardo	Attorney	Greenlining	\$370	2011	\$370
Enrique	Gallardo	Attorney	Greenlining	\$370	2012	\$380
Enrique	Gallardo	Attorney	Greenlining	\$370	2013	\$390

(END OF APPENDIX)